

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLIFTON B. DAY, and
PHILLIP D. CIRISAN,

Plaintiffs,

v.

SAL AHMED, *et al.*,

Defendants.

CIVIL ACTION NO. 05 CV 72677 DT

DISTRICT JUDGE ARTHUR TARNOW

MAGISTRATE JUDGE VIRGINIA M. MORGAN

ORDER DENYING REQUEST FOR STAY

On December 13, 2005, plaintiff Clifton Day filed a document bearing the following title: “EX PARTE COMMUNICATION REQUESTING STAY OF PROCEEDINGS PENDING INTERVENTION OF THIS COURT AND RESOLUTION TO PLAINTIFF’S DENIAL OF LEGAL PROPERTY TO FULLY EXPEDITE ACCESS TO THE COURT.” In that document, plaintiff alleged that prison officials confiscated certain legal documents from him related to the present cause of action. Though his request for relief is not altogether clear, Day appeared to request that an order be entered compelling prison officials to return his legal documents to him and that a stay be issued pending compliance with the order.

If, at a later date, it appears that prison officials are improperly withholding from Day or, for that matter, from plaintiff Cirisan, documents they might need to litigate this case, the court will grant plaintiffs appropriate relief. However, Day has failed to demonstrate that such relief is

presently necessary. Day has not specified what documents have been confiscated, nor has he made any particularized showing as to what need he has for any of the allegedly confiscated documents at the present time in order to proceed in this litigation. There are no dispositive motions currently pending for which such documentation might be needed, and Day has not alleged that he needs any of the seized documents to support his pending objections to the court's November 22, 2005 Report and Recommendation, in which the court recommended that plaintiffs' complaint be dismissed for failure to exhaust administrative remedies. Accordingly, IT IS ORDERED that Day's request for a stay and for an order requiring prison officials to return his legal documents to him **IS DENIED**.

s/Virginia M. Morgan
VIRGINIA M. MORGAN
UNITED STATES MAGISTRATE JUDGE

Dated: January 26, 2006

PROOF OF SERVICE

The undersigned certifies that the foregoing order was served upon the parties and counsel of record via the Court's ECF System and/or U. S. Mail on January 26, 2006.

s/J Hernandez
Case Manager to
Magistrate Judge Virginia M. Morgan